

FIRST REGULAR SESSION

SENATE BILL NO. 254

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BARNITZ AND SHOEMYER.

Read 1st time January 27, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1393S.02I

AN ACT

To repeal sections 32.115, 99.1205, 135.484, 135.535, 135.680, and 208.770, RSMo, and to enact in lieu thereof seven new sections relating to the show-me milk credit.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 32.115, 99.1205, 135.484, 135.535, 135.680, and 208.770, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 32.115, 99.1205, 135.484, 135.535, 135.680, 135.704, and 208.770, to read as follows:

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148, RSMo;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030, RSMo;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;

(4) The tax on other financial institutions in chapter 148, RSMo;

(5) The corporation franchise tax in chapter 147, RSMo;

(6) The state income tax in chapter 143, RSMo; and

(7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in

18 programs approved pursuant to section 32.110;

19 (2) Except as provided in subsection 2 or 5 of this section, a tax credit of
20 up to seventy percent may be allowed for contributions to programs where
21 activities fall within the scope of special program priorities as defined with the
22 approval of the governor in regulations promulgated by the director of the
23 department of economic development;

24 (3) Except as provided in subsection 2 or 5 of this section, the tax credit
25 allowed for contributions to programs located in any community shall be equal to
26 seventy percent of the total amount contributed where such community is a city,
27 town or village which has fifteen thousand or less inhabitants as of the last
28 decennial census and is located in a county which is either located in:

29 (a) An area that is not part of a standard metropolitan statistical area;

30 (b) A standard metropolitan statistical area but such county has only one
31 city, town or village which has more than fifteen thousand inhabitants; or

32 (c) A standard metropolitan statistical area and a substantial number of
33 persons in such county derive their income from agriculture.

34 Such community may also be in an unincorporated area in such county as
35 provided in subdivision (1), (2) or (3) of this subsection. Except in no case shall
36 the total economic benefit of the combined federal and state tax savings to the
37 taxpayer exceed the amount contributed by the taxpayer during the tax year;

38 (4) Such tax credit allocation, equal to seventy percent of the total amount
39 contributed, shall not exceed four million dollars in fiscal year 1999 and six
40 million dollars in fiscal year 2000 and any subsequent fiscal year. When the
41 maximum dollar limit on the seventy percent tax credit allocation is committed,
42 the tax credit allocation for such programs shall then be equal to fifty percent
43 credit of the total amount contributed. Regulations establishing special program
44 priorities are to be promulgated during the first month of each fiscal year and at
45 such times during the year as the public interest dictates. Such credit shall not
46 exceed two hundred and fifty thousand dollars annually except as provided in
47 subdivision (5) of this subsection. No tax credit shall be approved for any bank,
48 bank and trust company, insurance company, trust company, national bank,
49 savings association, or building and loan association for activities that are a part
50 of its normal course of business. Any tax credit not used in the period the
51 contribution was made may be carried over the next five succeeding calendar or
52 fiscal years until the full credit has been claimed. Except as otherwise provided
53 for proposals approved pursuant to section 32.111, 32.112 or 32.117, in no event

54 shall the total amount of all other tax credits allowed pursuant to sections 32.100
55 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six
56 million shall be credits allowed pursuant to section 135.460, RSMo. If six million
57 dollars in credits are not approved, then the remaining credits may be used for
58 programs approved pursuant to sections 32.100 to 32.125. **To the extent that**
59 **as of the last day of April in any year, less than thirty million dollars**
60 **in tax credits have been issued under the provisions of this section,**
61 **such remaining unissued tax credits shall be made available for**
62 **allocation pursuant to the provisions of section 135.704, RSMo;**

63 (5) The credit may exceed two hundred fifty thousand dollars annually
64 and shall not be limited if community services, crime prevention, education, job
65 training, physical revitalization or economic development, as defined by section
66 32.105, is rendered in an area defined by federal or state law as an impoverished,
67 economically distressed, or blighted area or as a neighborhood experiencing
68 problems endangering its existence as a viable and stable neighborhood, or if the
69 community services, crime prevention, education, job training, physical
70 revitalization or economic development is limited to impoverished persons.

71 3. For proposals approved pursuant to section 32.111:

72 (1) The amount of the tax credit shall not exceed fifty-five percent of the
73 total amount invested in affordable housing assistance activities or market rate
74 housing in distressed communities as defined in section 135.530, RSMo, by a
75 business firm. Whenever such investment is made in the form of an equity
76 investment or a loan, as opposed to a donation alone, tax credits may be claimed
77 only where the loan or equity investment is accompanied by a donation which is
78 eligible for federal income tax charitable deduction, and where the total value of
79 the tax credits herein plus the value of the federal income tax charitable
80 deduction is less than or equal to the value of the donation. Any tax credit not
81 used in the period for which the credit was approved may be carried over the next
82 ten succeeding calendar or fiscal years until the full credit has been allowed. If
83 the affordable housing units or market rate housing units in distressed
84 communities for which a tax is claimed are within a larger structure, parts of
85 which are not the subject of a tax credit claim, then expenditures applicable to
86 the entire structure shall be reduced on a prorated basis in proportion to the ratio
87 of the number of square feet devoted to the affordable housing units or market
88 rate housing units in distressed communities, for purposes of determining the
89 amount of the tax credit. The total amount of tax credit granted for programs

90 approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991,
91 shall not exceed two million dollars, to be increased by no more than two million
92 dollars each succeeding fiscal year, until the total tax credits that may be
93 approved reaches ten million dollars in any fiscal year;

94 (2) For any year during the compliance period indicated in the land use
95 restriction agreement, the owner of the affordable housing rental units for which
96 a credit is being claimed shall certify to the commission that all tenants renting
97 claimed units are income eligible for affordable housing units and that the rentals
98 for each claimed unit are in compliance with the provisions of sections 32.100 to
99 32.125. The commission is authorized, in its discretion, to audit the records and
100 accounts of the owner to verify such certification;

101 (3) In the case of owner-occupied affordable housing units, the qualifying
102 owner occupant shall, before the end of the first year in which credits are
103 claimed, certify to the commission that the occupant is income eligible during the
104 preceding two years, and at the time of the initial purchase contract, but not
105 thereafter. The qualifying owner occupant shall further certify to the commission,
106 before the end of the first year in which credits are claimed, that during the
107 compliance period indicated in the land use restriction agreement, the cost of the
108 affordable housing unit to the occupant for the claimed unit can reasonably be
109 projected to be in compliance with the provisions of sections 32.100 to
110 32.125. Any succeeding owner occupant acquiring the affordable housing unit
111 during the compliance period indicated in the land use restriction agreement
112 shall make the same certification;

113 (4) If at any time during the compliance period the commission determines
114 a project for which a proposal has been approved is not in compliance with the
115 applicable provisions of sections 32.100 to 32.125 or rules promulgated therefor,
116 the commission may within one hundred fifty days of notice to the owner either
117 seek injunctive enforcement action against the owner, or seek legal damages
118 against the owner representing the value of the tax credits, or foreclose on the
119 lien in the land use restriction agreement, selling the project at a public sale, and
120 paying to the owner the proceeds of the sale, less the costs of the sale and less the
121 value of all tax credits allowed herein. The commission shall remit to the director
122 of revenue the portion of the legal damages collected or the sale proceeds
123 representing the value of the tax credits. However, except in the event of
124 intentional fraud by the taxpayer, the proposal's certificate of eligibility for tax
125 credits shall not be revoked.

126 4. For proposals approved pursuant to section 32.112, the amount of the
127 tax credit shall not exceed fifty-five percent of the total amount contributed to a
128 neighborhood organization by business firms. Any tax credit not used in the
129 period for which the credit was approved may be carried over the next ten
130 succeeding calendar or fiscal years until the full credit has been allowed. The
131 total amount of tax credit granted for programs approved pursuant to section
132 32.112 shall not exceed one million dollars for each fiscal year.

133 5. The total amount of tax credits used for market rate housing in
134 distressed communities pursuant to sections 32.100 to 32.125 shall not exceed
135 thirty percent of the total amount of all tax credits authorized pursuant to
136 sections 32.111 and 32.112.

99.1205. 1. This section shall be known and may be cited as the
2 "Distressed Areas Land Assemblage Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Acquisition costs", the purchase price for the eligible parcel, costs of
5 environmental assessments, closing costs, real estate brokerage fees, reasonable
6 demolition costs of vacant structures, and reasonable maintenance costs incurred
7 to maintain an acquired eligible parcel for a period of five years after the
8 acquisition of such eligible parcel. Acquisition costs shall not include costs for
9 title insurance and survey, attorney's fees, relocation costs, fines, or bills from a
10 municipality;

11 (2) "Applicant", any person, firm, partnership, trust, limited liability
12 company, or corporation which has:

13 (a) Incurred, within an eligible project area, acquisition costs for the
14 acquisition of land sufficient to satisfy the requirements under subdivision (8) of
15 this subsection; and

16 (b) Been appointed or selected, pursuant to a redevelopment agreement
17 by a municipal authority, as a redeveloper or similar designation, under an
18 economic incentive law, to redevelop an urban renewal area or a redevelopment
19 area that includes all of an eligible project area or whose redevelopment plan or
20 redevelopment area, which encompasses all of an eligible project area, has been
21 approved or adopted under an economic incentive law. In addition to being
22 designated the redeveloper, the applicant shall have been designated to receive
23 economic incentives only after the municipal authority has considered the amount
24 of the tax credits in adopting such economic incentives as provided in subsection
25 8 of this section. The redevelopment agreement shall provide that:

26 a. The funds generated through the use or sale of the tax credits issued
27 under this section shall be used to redevelop the eligible project area;

28 b. No more than seventy-five percent of the urban renewal area identified
29 in the urban renewal plan or the redevelopment area identified in the
30 redevelopment plan may be redeveloped by the applicant; and

31 c. The remainder of the urban renewal area or the redevelopment area
32 shall be redeveloped by co-redevelopers or redevelopers to whom the applicant
33 has assigned its redevelopment rights and obligations under the urban renewal
34 plan or the redevelopment plan;

35 (3) "Certificate", a tax credit certificate issued under this section;

36 (4) "Condemnation proceedings", any action taken by, or on behalf of, an
37 applicant to initiate an action in a court of competent jurisdiction to use the
38 power of eminent domain to acquire a parcel within the eligible project
39 area. Condemnation proceedings shall include any and all actions taken after the
40 submission of a notice of intended acquisition to an owner of a parcel within the
41 eligible project area by a municipal authority or any other person or entity under
42 section 523.250, RSMo;

43 (5) "Department", the Missouri department of economic development;

44 (6) "Economic incentive laws", any provision of Missouri law pursuant to
45 which economic incentives are provided to redevelopers of a parcel or parcels to
46 redevelop the land, such as tax abatement or payments in lieu of taxes, or
47 redevelopment plans or redevelopment projects approved or adopted which
48 include the use of economic incentives to redevelop the land. Economic incentive
49 laws include, but are not limited to, the land clearance for redevelopment
50 authority law under sections 99.300 to 99.660, the real property tax increment
51 allocation redevelopment act under sections 99.800 to 99.865, the Missouri
52 downtown and rural economic stimulus act under sections 99.915 to 99.1060, and
53 the downtown revitalization preservation program under sections 99.1080 to
54 99.1092;

55 (7) "Eligible parcel", a parcel:

56 (a) Which is located within an eligible project area;

57 (b) Which is to be redeveloped;

58 (c) On which the applicant has not commenced construction prior to
59 November 28, 2007;

60 (d) Which has been acquired without the commencement of any
61 condemnation proceedings with respect to such parcel brought by or on behalf of

62 the applicant. Any parcel acquired by the applicant from a municipal authority
63 shall not constitute an eligible parcel; and

64 (e) On which all outstanding taxes, fines, and bills levied by municipal
65 governments that were levied by the municipality during the time period that the
66 applicant held title to the eligible parcel have been paid in full;

67 (8) "Eligible project area", an area which shall have satisfied the following
68 requirements:

69 (a) The eligible project area shall consist of at least seventy-five acres and
70 may include parcels within its boundaries that do not constitute an eligible
71 parcel;

72 (b) At least eighty percent of the eligible project area shall be located
73 within a Missouri qualified census tract area, as designated by the United States
74 Department of Housing and Urban Development under 26 U.S.C. Section 42, or
75 within a distressed community as that term is defined in section 135.530, RSMo;

76 (c) The eligible parcels acquired by the applicant within the eligible
77 project area shall total at least fifty acres, which may consist of contiguous and
78 noncontiguous parcels;

79 (d) The average number of parcels per acre in an eligible project area
80 shall be four or more;

81 (e) Less than five percent of the acreage within the boundaries of the
82 eligible project area shall consist of owner-occupied residences which the
83 applicant has identified for acquisition under the urban renewal plan or the
84 redevelopment plan pursuant to which the applicant was appointed or selected
85 as the redeveloper or by which the person or entity was qualified as an applicant
86 under this section on the date of the approval or adoption of such plan;

87 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs
88 shall not include attorney's fees;

89 (10) "Maintenance costs", costs of boarding up and securing vacant
90 structures, costs of removing trash, and costs of cutting grass and weeds;

91 (11) "Municipal authority", any city, town, village, county, public body
92 corporate and politic, political subdivision, or land trust of this state established
93 and authorized to own land within the state;

94 (12) "Municipality", any city, town, village, or county;

95 (13) "Parcel", a single lot or tract of land, and the improvements thereon,
96 owned by, or recorded as the property of, one or more persons or entities;

97 (14) "Redeveloped", the process of undertaking and carrying out a

98 redevelopment plan or urban renewal plan pursuant to which the conditions
99 which provided the basis for an eligible project area to be included in a
100 redevelopment plan or urban renewal plan are to be reduced or eliminated by
101 redevelopment or rehabilitation; and

102 (15) "Redevelopment agreement", the redevelopment agreement or similar
103 agreement into which the applicant entered with a municipal authority and which
104 is the agreement for the implementation of the urban renewal plan or
105 redevelopment plan pursuant to which the applicant was appointed or selected
106 as the redeveloper or by which the person or entity was qualified as an applicant
107 under this section; and such appointment or selection shall have been approved
108 by an ordinance of the governing body of the municipality, or municipalities, or
109 in the case of any city not within a county, the board of aldermen, in which the
110 eligible project area is located. The redevelopment agreement shall include a
111 time line for redevelopment of the eligible project area. The redevelopment
112 agreement shall state that the named developer shall be subject to the provisions
113 of chapter 290, RSMo.

114 3. Any applicant shall be entitled to a tax credit against the taxes
115 imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to
116 143.265, RSMo, in an amount equal to fifty percent of the acquisition costs, and
117 one hundred percent of the interest costs incurred for a period of five years after
118 the acquisition of an eligible parcel. No tax credits shall be issued under this
119 section until after January 1, 2008.

120 4. If the amount of such tax credit exceeds the total tax liability for the
121 year in which the applicant is entitled to receive a tax credit, the amount that
122 exceeds the state tax liability may be carried forward for credit against the taxes
123 imposed under chapters 143, 147, and 148, RSMo, for the succeeding six years,
124 or until the full credit is used, whichever occurs first. The applicant shall not be
125 entitled to a tax credit for taxes imposed under sections 143.191 to 143.265,
126 RSMo. Applicants entitled to receive such tax credits may transfer, sell, or assign
127 the tax credits. Tax credits granted to a partnership, a limited liability company
128 taxed as a partnership, or multiple owners of property shall be passed through
129 to the partners, members, or owners respectively pro rata or pursuant to an
130 executed agreement among the partners, members, or owners documenting an
131 alternate distribution method.

132 5. A purchaser, transferee, or assignee of the tax credits authorized under
133 this section may use acquired tax credits to offset up to one hundred percent of

134 the tax liabilities otherwise imposed under chapters 143, 147, and 148, RSMo,
135 except for sections 143.191 to 143.265, RSMo. A seller, transferor, or assignor
136 shall perfect such transfer by notifying the department in writing within thirty
137 calendar days following the effective date of the transfer and shall provide any
138 information as may be required by the department to administer and carry out
139 the provisions of this section.

140 6. To claim tax credits authorized under this section, an applicant shall
141 submit to the department an application for a certificate. An applicant shall
142 identify the boundaries of the eligible project area in the application. The
143 department shall verify that the applicant has submitted a valid application in
144 the form and format required by the department. The department shall verify
145 that the municipal authority held the requisite hearings and gave the requisite
146 notices for such hearings in accordance with the applicable economic incentive
147 act, and municipal ordinances. On an annual basis, an applicant may file for the
148 tax credit for the acquisition costs, and for the tax credit for the interest costs,
149 subject to the limitations of this section. If an applicant applying for the tax
150 credit meets the criteria required under this section, the department shall issue
151 a certificate in the appropriate amount. If an applicant receives a tax credit for
152 maintenance costs as a part of the applicant's acquisition costs, the department
153 shall post on its Internet web site the amount and type of maintenance costs and
154 a description of the redevelopment project for which the applicant received a tax
155 credit within thirty days after the department issues the certificate to the
156 applicant.

157 7. The total aggregate amount of tax credits authorized under this section
158 shall not exceed ninety-five million dollars. At no time shall the annual amount
159 of the tax credits issued under this section exceed ten million dollars. **To the**
160 **extent that as of the first day of December in any year, less than ten**
161 **million dollars in tax credits have been issued under the provisions of**
162 **this section, such remaining unissued tax credits shall be made**
163 **available for allocation pursuant to the provisions of section 135.704,**
164 **RSMo.** If the tax credits that are to be issued under this section exceed, in any
165 year, the ten million dollar limitation, the department shall either:

166 (1) Issue tax credits to the applicant in the amount of ten million dollars,
167 if there is only one applicant entitled to receive tax credits in that year; or

168 (2) Issue the tax credits on a pro rata basis to all applicants entitled to
169 receive tax credits in that year. Any amount of tax credits, which an applicant

170 is, or applicants are, entitled to receive on an annual basis and are not issued due
171 to the ten million dollar limitation, shall be carried forward for the benefit of the
172 applicant or applicants to subsequent years. No tax credits provided under this
173 section shall be authorized after August 28, 2013. Any tax credits which have
174 been authorized on or before August 28, 2013, but not issued, may be issued,
175 subject to the limitations provided under this subsection, until all such
176 authorized tax credits have been issued.

177 8. Upon issuance of any tax credits pursuant to this section, the
178 department shall report to the municipal authority the applicant's name and
179 address, the parcel numbers of the eligible parcels for which the tax credits were
180 issued, the itemized acquisition costs and interest costs for which tax credits were
181 issued, and the total value of the tax credits issued. The municipal authority and
182 the state shall not consider the amount of the tax credits as an applicant's cost,
183 but shall include the tax credits in any sources and uses and cost benefit analysis
184 reviewed or created for the purpose of awarding other economic incentives. The
185 amount of the tax credits shall not be considered an applicant's cost in the
186 evaluation of the amount of any award of any other economic incentives, but shall
187 be considered in measuring the reasonableness of the rate of return to the
188 applicant with respect to such award of other economic incentives. The municipal
189 authority shall provide the report to any relevant commission, board, or entity
190 responsible for the evaluation and recommendation or approval of other economic
191 incentives to assist in the redevelopment of the eligible project area. Tax credits
192 authorized under this section shall constitute redevelopment tax credits, as such
193 term is defined under section 135.800 RSMo, and shall be subject to all provisions
194 applicable to redevelopment tax credits provided under sections 135.800 to
195 135.830 RSMo.

196 9. The department may promulgate rules to implement the provisions of
197 this section. Any rule or portion of a rule, as that term is defined in section
198 536.010, RSMo, that is created under the authority delegated in this section shall
199 become effective only if it complies with and is subject to all of the provisions of
200 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
201 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
202 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
203 date, or to disapprove and annul a rule are subsequently held unconstitutional,
204 then the grant of rulemaking authority and any rule proposed or adopted after
205 August 28, 2007, shall be invalid and void.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed
2 pursuant to section 135.481 in an amount not to exceed sixteen million dollars
3 per year. Of this total amount of tax credits in any given year, eight million
4 dollars shall be set aside for projects in areas described in subdivision (6) of
5 section 135.478 and eight million dollars for projects in areas described in
6 subdivision (10) of section 135.478. The maximum tax credit for a project
7 consisting of multiple-unit qualifying residences in a distressed community shall
8 not exceed three million dollars. **To the extent that as of the first day of**
9 **December in any year, less than sixteen million dollars in tax credits**
10 **have been issued under the provisions of this section, such remaining**
11 **unissued tax credits shall be made available for allocation pursuant to**
12 **the provisions of section 135.704.**

13 2. Any amount of credit which exceeds the tax liability of a taxpayer for
14 the tax year in which the credit is first claimed may be carried back to any of the
15 taxpayer's three prior tax years and carried forward to any of the taxpayer's five
16 subsequent tax years. A certificate of tax credit issued to a taxpayer by the
17 department may be assigned, transferred, sold or otherwise conveyed. Whenever
18 a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a
19 notarized endorsement shall be filed with the department specifying the name
20 and address of the new owner of the tax credit and the value of the credit.

21 3. The tax credits allowed pursuant to sections 135.475 to 135.487 may
22 not be claimed in addition to any other state tax credits, with the exception of the
23 historic structures rehabilitation tax credit authorized pursuant to sections
24 253.545 to 253.559, RSMo, which insofar as sections 135.475 to 135.487 are
25 concerned may be claimed only in conjunction with the tax credit allowed
26 pursuant to subsection 4 of section 135.481. In order for a taxpayer eligible for
27 the historic structures rehabilitation tax credit to claim the tax credit allowed
28 pursuant to subsection 4 of section 135.481, the taxpayer must comply with the
29 requirements of sections 253.545 to 253.559, RSMo, and in such cases, the
30 amount of the tax credit pursuant to subsection 4 of section 135.481 shall be
31 limited to the lesser of twenty percent of the taxpayer's eligible costs or forty
32 thousand dollars.

135.535. 1. A corporation, limited liability corporation, partnership or
2 sole proprietorship, which moves its operations from outside Missouri or outside
3 a distressed community into a distressed community, or which commences
4 operations in a distressed community on or after January 1, 1999, and in either

5 case has more than seventy-five percent of its employees at the facility in the
6 distressed community, and which has fewer than one hundred employees for
7 whom payroll taxes are paid, and which is a manufacturing, biomedical, medical
8 devices, scientific research, animal research, computer software design or
9 development, computer programming, including Internet, web hosting, and other
10 information technology, wireless or wired or other telecommunications or a
11 professional firm shall receive a forty percent credit against income taxes owed
12 pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant
13 to sections 143.191 to 143.265, RSMo, for each of the three years after such move,
14 if approved by the department of economic development, which shall issue a
15 certificate of eligibility if the department determines that the taxpayer is eligible
16 for such credit. The maximum amount of credits per taxpayer set forth in this
17 subsection shall not exceed one hundred twenty-five thousand dollars for each of
18 the three years for which the credit is claimed. The department of economic
19 development, by means of rule or regulation promulgated pursuant to the
20 provisions of chapter 536, RSMo, shall assign appropriate North American
21 Industry Classification System numbers to the companies which are eligible for
22 the tax credits provided for in this section. Such three-year credits shall be
23 awarded only one time to any company which moves its operations from outside
24 of Missouri or outside of a distressed community into a distressed community or
25 to a company which commences operations within a distressed community. A
26 taxpayer shall file an application for certification of the tax credits for the first
27 year in which credits are claimed and for each of the two succeeding taxable years
28 for which credits are claimed.

29 2. Employees of such facilities physically working and earning wages for
30 that work within a distressed community whose employers have been approved
31 for tax credits pursuant to subsection 1 of this section by the department of
32 economic development for whom payroll taxes are paid shall also be eligible to
33 receive a tax credit against individual income tax, imposed pursuant to chapter
34 143, RSMo, equal to one and one-half percent of their gross salary paid at such
35 facility earned for each of the three years that the facility receives the tax credit
36 provided by this section, so long as they were qualified employees of such
37 entity. The employer shall calculate the amount of such credit and shall report
38 the amount to the employee and the department of revenue.

39 3. A tax credit against income taxes owed pursuant to chapter 143, 147
40 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to

41 143.265, RSMo, in lieu of the credit against income taxes as provided in
42 subsection 1 of this section, may be taken by such an entity in a distressed
43 community in an amount of forty percent of the amount of funds expended for
44 computer equipment and its maintenance, medical laboratories and equipment,
45 research laboratory equipment, manufacturing equipment, fiber optic equipment,
46 high speed telecommunications, wiring or software development expense up to a
47 maximum of seventy-five thousand dollars in tax credits for such equipment or
48 expense per year per entity and for each of three years after commencement in
49 or moving operations into a distressed community.

50 4. A corporation, partnership or sole partnership, which has no more than
51 one hundred employees for whom payroll taxes are paid, which is already located
52 in a distressed community and which expends funds for such equipment pursuant
53 to subsection 3 of this section in an amount exceeding its average of the prior two
54 years for such equipment, shall be eligible to receive a tax credit against income
55 taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to
56 the lesser of seventy-five thousand dollars or twenty-five percent of the funds
57 expended for such additional equipment per such entity. Tax credits allowed
58 pursuant to this subsection or subsection 1 of this section may be carried back to
59 any of the three prior tax years and carried forward to any of the five tax years.

60 5. An existing corporation, partnership or sole proprietorship that is
61 located within a distressed community and that relocates employees from another
62 facility outside of the distressed community to its facility within the distressed
63 community, and an existing business located within a distressed community that
64 hires new employees for that facility may both be eligible for the tax credits
65 allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,
66 such a business, during one of its tax years, shall employ within a distressed
67 community at least twice as many employees as were employed at the beginning
68 of that tax year. A business hiring employees shall have no more than one
69 hundred employees before the addition of the new employees. This subsection
70 shall only apply to a business which is a manufacturing, biomedical, medical
71 devices, scientific research, animal research, computer software design or
72 development, computer programming or telecommunications business, or a
73 professional firm.

74 6. Tax credits shall be approved for applicants meeting the requirements
75 of this section in the order that such applications are received. Certificates of tax
76 credits issued in accordance with this section may be transferred, sold or assigned

77 by notarized endorsement which names the transferee.

78 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this
79 section shall be for an amount of no more than ten million dollars for each year
80 beginning in 1999. To the extent there are available tax credits remaining under
81 the ten million dollar cap provided in this section, up to one hundred thousand
82 dollars in the remaining credits shall first be used for tax credits authorized
83 under section 135.562. **To the extent that as of the first day of December**
84 **in any year, less than ten million dollars in tax credits have been issued**
85 **under the provisions of this section, such remaining unissued tax**
86 **credits shall be made available for allocation pursuant to the**
87 **provisions of section 135.704.** The total maximum credit for all entities
88 already located in distressed communities and claiming credits pursuant to
89 subsection 4 of this section shall be seven hundred and fifty thousand
90 dollars. The department of economic development in approving taxpayers for the
91 credit as provided for in subsection 6 of this section shall use information
92 provided by the department of revenue regarding taxes paid in the previous year,
93 or projected taxes for those entities newly established in the state, as the method
94 of determining when this maximum will be reached and shall maintain a record
95 of the order of approval. Any tax credit not used in the period for which the
96 credit was approved may be carried over until the full credit has been allowed.

97 8. A Missouri employer relocating into a distressed community and having
98 employees covered by a collective bargaining agreement at the facility from which
99 it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this
100 section, and its employees shall not be eligible for the credit in subsection 2 of
101 this section if the relocation violates or terminates a collective bargaining
102 agreement covering employees at the facility, unless the affected collective
103 bargaining unit concurs with the move.

104 9. Notwithstanding any provision of law to the contrary, no taxpayer shall
105 earn the tax credits allowed in this section and the tax credits otherwise allowed
106 in section 135.110, or the tax credits, exemptions, and refund otherwise allowed
107 in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same
108 business for the same tax period.

135.680. 1. As used in this section, the following terms shall mean:

2 (1) "Adjusted purchase price", the product of:

3 (a) The amount paid to the issuer of a qualified equity investment for such
4 qualified equity investment; and

5 (b) The following fraction:

6 a. The numerator shall be the dollar amount of qualified low-income
7 community investments held by the issuer in this state as of the credit allowance
8 date during the applicable tax year; and

9 b. The denominator shall be the total dollar amount of qualified
10 low-income community investments held by the issuer in all states as of the credit
11 allowance date during the applicable tax year;

12 c. For purposes of calculating the amount of qualified low-income
13 community investments held by an issuer, an investment shall be considered held
14 by an issuer even if the investment has been sold or repaid; provided that the
15 issuer reinvests an amount equal to the capital returned to or recovered by the
16 issuer from the original investment, exclusive of any profits realized, in another
17 qualified low-income community investment within twelve months of the receipt
18 of such capital. An issuer shall not be required to reinvest capital returned from
19 qualified low-income community investments after the sixth anniversary of the
20 issuance of the qualified equity investment, the proceeds of which were used to
21 make the qualified low-income community investment, and the qualified
22 low-income community investment shall be considered held by the issuer through
23 the seventh anniversary of the qualified equity investment's issuance;

24 (2) "Applicable percentage", zero percent for each of the first two credit
25 allowance dates, seven percent for the third credit allowance date, and eight
26 percent for the next four credit allowance dates;

27 (3) "Credit allowance date", with respect to any qualified equity
28 investment:

29 (a) The date on which such investment is initially made; and

30 (b) Each of the six anniversary dates of such date thereafter;

31 (4) "Long-term debt security", any debt instrument issued by a qualified
32 community development entity, at par value or a premium, with an original
33 maturity date of at least seven years from the date of its issuance, with no
34 acceleration of repayment, amortization, or prepayment features prior to its
35 original maturity date, and with no distribution, payment, or interest features
36 related to the profitability of the qualified community development entity or the
37 performance of the qualified community development entity's investment
38 portfolio. The foregoing shall in no way limit the holder's ability to accelerate
39 payments on the debt instrument in situations where the issuer has defaulted on
40 covenants designed to ensure compliance with this section or Section 45D of the

41 Internal Revenue Code of 1986, as amended;

42 (5) "Qualified active low-income community business", the meaning given
43 such term in Section 45D of the Internal Revenue Code of 1986, as amended;
44 provided that any business that derives or projects to derive fifteen percent or
45 more of its annual revenue from the rental or sale of real estate shall not be
46 considered to be a qualified active low-income community business;

47 (6) "Qualified community development entity", the meaning given such
48 term in Section 45D of the Internal Revenue Code of 1986, as amended; provided
49 that such entity has entered into an allocation agreement with the Community
50 Development Financial Institutions Fund of the U.S. Treasury Department with
51 respect to credits authorized by Section 45D of the Internal Revenue Code of
52 1986, as amended, which includes the state of Missouri within the service area
53 set forth in such allocation agreement;

54 (7) "Qualified equity investment", any equity investment in, or long-term
55 debt security issued by, a qualified community development entity that:

56 (a) Is acquired after September 4, 2007, at its original issuance solely in
57 exchange for cash;

58 (b) Has at least eighty-five percent of its cash purchase price used by the
59 issuer to make qualified low-income community investments; and

60 (c) Is designated by the issuer as a qualified equity investment under this
61 subdivision and is certified by the department of economic development as not
62 exceeding the limitation contained in subsection 2 of this section.

63 This term shall include any qualified equity investment that does not meet the
64 provisions of paragraph (a) of this subdivision if such investment was a qualified
65 equity investment in the hands of a prior holder;

66 (8) "Qualified low-income community investment", any capital or equity
67 investment in, or loan to, any qualified active low-income community
68 business. With respect to any one qualified active low-income community
69 business, the maximum amount of qualified low-income community investments
70 made in such business, on a collective basis with all of its affiliates, that may be
71 used from the calculation of any numerator described in subparagraph a. of
72 paragraph (b) of subdivision (1) of this subsection shall be ten million dollars
73 whether issued to one or several qualified community development entities;

74 (9) "Tax credit", a credit against the tax otherwise due under chapter 143,
75 RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo,
76 or otherwise due under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

77 (10) "Taxpayer", any individual or entity subject to the tax imposed in
78 chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to
79 143.265, RSMo, or the tax imposed in section 375.916, RSMo, or chapter 147, 148,
80 or 153, RSMo.

81 2. A taxpayer that makes a qualified equity investment earns a vested
82 right to tax credits under this section. On each credit allowance date of such
83 qualified equity investment the taxpayer, or subsequent holder of the qualified
84 equity investment, shall be entitled to a tax credit during the taxable year
85 including such credit allowance date. The tax credit amount shall be equal to the
86 applicable percentage of the adjusted purchase price paid to the issuer of such
87 qualified equity investment. The amount of the tax credit claimed shall not
88 exceed the amount of the taxpayer's state tax liability for the tax year for which
89 the tax credit is claimed. No tax credit claimed under this section shall be
90 refundable or transferable. Tax credits earned by a partnership, limited liability
91 company, S-corporation, or other pass-through entity may be allocated to the
92 partners, members, or shareholders of such entity for their direct use in
93 accordance with the provisions of any agreement among such partners, members,
94 or shareholders. Any amount of tax credit that the taxpayer is prohibited by this
95 section from claiming in a taxable year may be carried forward to any of the
96 taxpayer's five subsequent taxable years. The department of economic
97 development shall limit the monetary amount of qualified equity investments
98 permitted under this section to a level necessary to limit tax credit utilization at
99 no more than fifteen million dollars of tax credits in any fiscal year. **To the**
100 **extent that as of the last day of April in any year, less than fifteen**
101 **million dollars in tax credits have been issued under the provisions of**
102 **this section, such remaining unissued tax credits shall be made**
103 **available for allocation pursuant to the provisions of section**
104 **135.704.** Such limitation on qualified equity investments shall be based on the
105 anticipated utilization of credits without regard to the potential for taxpayers to
106 carry forward tax credits to later tax years.

107 3. The issuer of the qualified equity investment shall certify to the
108 department of economic development the anticipated dollar amount of such
109 investments to be made in this state during the first twelve-month period
110 following the initial credit allowance date. If on the second credit allowance date,
111 the actual dollar amount of such investments is different than the amount
112 estimated, the department of economic development shall adjust the credits

113 arising on the second allowance date to account for such difference.

114 4. The department of economic development shall recapture the tax credit
115 allowed under this section with respect to such qualified equity investment under
116 this section if:

117 (1) Any amount of the federal tax credit available with respect to a
118 qualified equity investment that is eligible for a tax credit under this section is
119 recaptured under Section 45D of the Internal Revenue Code of 1986, as amended;
120 or

121 (2) The issuer redeems or makes principal repayment with respect to a
122 qualified equity investment prior to the seventh anniversary of the issuance of
123 such qualified equity investment.

124 Any tax credit that is subject to recapture shall be recaptured from the taxpayer
125 that claimed the tax credit on a return.

126 5. The department of economic development shall promulgate rules to
127 implement the provisions of this section, including recapture provisions on a
128 scaled proportional basis, and to administer the allocation of tax credits issued
129 for qualified equity investments, which shall be conducted on a first-come,
130 first-serve basis. Any rule or portion of a rule, as that term is defined in section
131 536.010, RSMo, that is created under the authority delegated in this section shall
132 become effective only if it complies with and is subject to all of the provisions of
133 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
134 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
135 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
136 date, or to disapprove and annul a rule are subsequently held unconstitutional,
137 then the grant of rulemaking authority and any rule proposed or adopted after
138 September 4, 2007, shall be invalid and void.

139 6. For fiscal years following fiscal year 2010, qualified equity investments
140 shall not be made under this section unless reauthorization is made pursuant to
141 this subsection. For all fiscal years following fiscal year 2010, unless the general
142 assembly adopts a concurrent resolution granting authority to the department of
143 economic development to approve qualified equity investments for the Missouri
144 new markets development program and clearly describing the amount of tax
145 credits available for the next fiscal year, or otherwise complies with the
146 provisions of this subsection, no qualified equity investments may be permitted
147 to be made under this section. The amount of available tax credits contained in
148 such a resolution shall not exceed the limitation provided under subsection 2 of

149 this section. In any year in which the provisions of this section shall sunset
150 pursuant to subsection 7 of this section, reauthorization shall be made by general
151 law and not by concurrent resolution. Nothing in this subsection shall preclude
152 a taxpayer who makes a qualified equity investment prior to the expiration of
153 authority to make qualified equity investments from claiming tax credits relating
154 to such qualified equity investment for each applicable credit allowance date.

155 7. Under section 23.253, RSMo, of the Missouri sunset act:

156 (1) The provisions of the new program authorized under this section shall
157 automatically sunset six years after September 4, 2007, unless reauthorized by
158 an act of the general assembly; and

159 (2) If such program is reauthorized, the program authorized under this
160 section shall automatically sunset twelve years after the effective date of the
161 reauthorization of this section; and

162 (3) This section shall terminate on September first of the calendar year
163 immediately following the calendar year in which the program authorized under
164 this section is sunset.

165 However, nothing in this subsection shall preclude a taxpayer who makes a
166 qualified equity investment prior to sunset of this section under the provisions
167 of section 23.253, RSMo, from claiming tax credits relating to such qualified
168 equity investment for each credit allowance date.

135.704. 1. As used in this section, the following terms mean:

2 (1) "Department", the department of agriculture of the state of
3 Missouri;

4 (2) "Director", the director of the department of agriculture of
5 the state of Missouri;

6 (3) "Milk plant", any place, premises, or establishment where
7 graded fluid milk or fluid milk products are collected, handled,
8 processed, stored, bottled, pasteurized, and prepared for distribution,
9 except an establishment where graded fluid milk products are sold at
10 retail as purchased from a milk plant;

11 (4) "Milk producer", any person with a valid Missouri milk
12 producer identification number who operates a dairy farm and
13 provides, sells, or offers milk for sale to a milk plant, receiving station,
14 or transfer station;

15 (5) "Taxpayer", any individual, partnership, or corporation as
16 described in sections 143.441 and 143.471, RSMo, that is subject to the

17 tax imposed in chapter 143, RSMo, excluding withholding tax imposed
18 by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147,
19 RSMo.

20 2. For all taxable years beginning on or after January 1, 2010,
21 any resident taxpayer who is actively engaged in business as a milk
22 producer shall be granted a tax credit based upon the amount of milk
23 produced and sold. The tax credit authorized under this section shall
24 be allowed based upon milk production for any month in which the
25 average of the USDA Uniform Prices in Federal Order Numbers 7 and
26 32 drops below the announced production price during the calendar
27 year. The tax credit authorized under this section may be claimed
28 against a taxpayer's state tax liability in the year of issuance. Such tax
29 credit shall be non-refundable, non-transferrable and valid only against
30 the state tax liability for the tax year of issuance. However, tax credits
31 earned by a partnership, limited liability company, S-corporation, or
32 other pass-through entity may be allocated to the partners, members,
33 or shareholders of such entity for their direct use in accordance with
34 the provisions of any agreement among such partners, members, or
35 shareholders.

36 3. Taxpayers shall apply for the milk production tax credit by
37 submitting an application to the department of agriculture on a form
38 provided by the department. As part of the application, the taxpayer
39 shall provide his or her producer identification number and
40 documentation as to the amount of milk produced during the tax credit
41 allowance period.

42 4. As of the first day of January, 2010, and the first day of every
43 calendar month thereafter, the director, or his or her designee, shall
44 report and make available for public inspection the announced price
45 based upon the following factors:

46 (1) The average price of milk in the top five states where milk is
47 imported into Missouri;

48 (2) The average transportation costs of importing milk from the
49 top five states where milk is imported into Missouri; and

50 (3) The cost of milk production in the state of Missouri.

51 5. In any calendar month in which tax credits are available for
52 issuance under the provisions of this section, eligible taxpayers may be
53 issued a credit in an amount equal to the sum of difference between the

54 average of the USDA Uniform Prices in Federal Order Numbers 7 and
55 32 and the announced price multiplied by the amount of milk produced
56 during such month in pounds divided by one hundred. The department
57 shall not issue more than twenty-five thousand dollars in tax credits
58 per milk producer taxpayer per year. The department shall not issue
59 more tax credits in any calendar year than are allocable to this
60 program for such calendar year as provided under section 32.115,
61 RSMo, section 99.1205, RSMo, sections 135.484, 135.535, and 135.680, and
62 section 208.770, RSMo.

63 6. Any rule or portion of a rule, as that term is defined in section
64 536.010, RSMo, that is created under the authority delegated in this
65 section shall become effective only if it complies with and is subject to
66 all of the provisions of chapter 536, RSMo, and, if applicable, section
67 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
68 and if any of the powers vested with the general assembly pursuant to
69 chapter 536, RSMo, to review, to delay the effective date, or to
70 disapprove and annul a rule are subsequently held unconstitutional,
71 then the grant of rulemaking authority and any rule proposed or
72 adopted after August 28, 2009, shall be invalid and void.

73 7. Under section 23.253, RSMo, of the Missouri sunset act:

74 (1) The provisions of the new program authorized under this
75 section shall automatically sunset two years after August 28, 2009,
76 unless reauthorized by an act of the general assembly; and

77 (2) If such program is reauthorized, the program authorized
78 under this section shall automatically sunset one year after the
79 effective date of the reauthorization of this section; and

80 (3) This section shall terminate on September first of the
81 calendar year immediately following the calendar year in which the
82 program authorized under this section is sunset.

208.770. 1. Moneys deposited in or withdrawn pursuant to subsection 1
2 of section 208.760 from a family development account by an account holder are
3 exempted from taxation pursuant to chapter 143, RSMo, excluding withholding
4 tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153,
5 RSMo, provided, however, that any money withdrawn for an unapproved use
6 should be subject to tax as required by law.

7 2. Interest earned by a family development account is exempted from
8 taxation pursuant to chapter 143, RSMo.

9 3. Any funds in a family development account, including accrued interest,
10 shall be disregarded when determining eligibility to receive, or the amount of, any
11 public assistance or benefits.

12 4. A program contributor shall be allowed a credit against the tax imposed
13 by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to
14 143.265, RSMo, and chapter 147, 148 or 153, RSMo, pursuant to sections 208.750
15 to 208.775. Contributions up to fifty thousand dollars per program contributor
16 are eligible for the tax credit which shall not exceed fifty percent of the
17 contribution amount.

18 5. The department of economic development shall verify all tax credit
19 claims by contributors. The administrator of the community-based organization,
20 with the cooperation of the participating financial institutions, shall submit the
21 names of contributors and the total amount each contributor contributes to a
22 family development account reserve fund for the calendar year. The director shall
23 determine the date by which such information shall be submitted to the
24 department by the local administrator. The department shall submit verification
25 of qualified tax credits pursuant to sections 208.750 to 208.775 to the department
26 of revenue.

27 6. The total tax credits authorized pursuant to sections 208.750 to 208.775
28 shall not exceed four million dollars in any fiscal year. **To the extent that as
29 of the last day of April in any year, less than four million dollars in tax
30 credits have been issued under the provisions of this section, such
31 remaining unissued tax credits shall be made available for allocation
32 pursuant to the provisions of section 135.704, RSMo.**

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